

# Google digital book project gets day in court

February 17 2010, by Chris Lefkow

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Visitors at the Google stand at the Frankfurt Book Fair in 2007. Google's digital book project finally gets its day in court on Thursday as the Internet giant asks a US judge to approve its ambitious plan to scan millions of books and sell them online.

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US [District Court Judge](#) Denny Chin is scheduled to hold a so-called "fairness hearing" in New York to hear arguments for and against the controversial deal between [Google](#) and US authors and publishers.

The agreement is the proposed settlement of a class action lawsuit filed against Google in 2005 by the [Authors Guild](#) and the American Association of Publishers (AAP) charging the Internet titan with [copyright infringement](#).

The hearing is going ahead after Google last week rebuffed anti-trust and copyright concerns raised by the US Justice Department and critics of the deal and urged Judge Chin to give it a green light.

Google, the Authors Guild, the AAP and two dozen backers and opponents of the settlement, which was reached in 2008 and modified since, are expected to present arguments at the day-long hearing in a Manhattan courtroom.

Peter Brantley, co-chair of the Open Book Alliance, a group of critics of the agreement which includes Google rivals Amazon, Microsoft and Yahoo!, said he does not expect the judge to deliver his ruling right away.

"I would be surprised if everything comes to a climax on Thursday," he said.

"I think it's much more likely that the judge will at the end of a long day say 'Thank you very much and I'll get back to you,'" said Brantley, a director of the San Francisco-based [Internet Archive](#), which maintains a digital library of websites and has its own book-scanning project.

Brantley said he expected the Justice Department's continued reservations about the agreement to carry some weight.

"One branch of the government can't entirely ignore the expressions of interest of another part of the government, that's just bad form," he said. "Particularly when you've got the Justice Department saying quite explicitly that this agreement is, in their words, 'a 'bridge too far.'"

"The judge could attempt to give them some guidance and we could enter another round of discussion about what the settlement might look like," he said.

The settlement has already been changed once to take into account previous objections raised by the Justice Department and others that forced a delay of a fairness hearing scheduled for November.

In its latest filing, the Justice Department said the revised settlement represented "substantial progress" but "issues remain."

"The amended settlement agreement still confers significant and possibly anti-competitive advantages on Google as a single entity," it said.

David Balto, an anti-trust attorney and senior fellow at the Center for American Progress, said he believed there was a "strong likelihood" of the settlement being approved and that it will "ultimately benefit consumers."

"You're going to see the usual arguments on both sides," Balto said. "But I think any independent observation of the record makes it clear that there are profound, pro-competitive benefits from the settlement."

Under the settlement, Google agreed to pay 125 million dollars to resolve outstanding claims and establish an independent "Book Rights Registry," which would provide a majority of the revenue from sales and advertising to authors and publishers who agree to digitize their books.

The revised settlement narrowed the definition of books covered under the deal to those published in Australia, Britain, Canada and the United States.

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